

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

AMENDED INFORMATION

v.

Case No. 24-cr-00028-wmc
18 U.S.C. § 1343
26 U.S.C. § 7206(2)

DAVID SWARTZ,

Defendant.

THE UNITED STATES ATTORNEY CHARGES:

COUNT 1

Background

1. At times material to this information:

a. Defendant DAVID SWARTZ was an unregistered investment advisor and fund manager based in Highland Park, Illinois.

b. SWARTZ operated the North Shore Alternative Strategies Fund, L.P. (NSAS) and represented to investors that NSAS was comprised of conservative investments and the value of the fund was steadily growing over time.

Scheme to Defraud

2. From in or about January 2019, through in or about March 2020, in the Western District of Wisconsin and elsewhere, the defendant,

DAVID SWARTZ,

knowingly, and with the intent to defraud, devised and participated in a scheme to defraud investors, and to obtain money and property by means of materially false and fraudulent pretenses, representations, omissions, and promises.

3. It was part of the scheme to defraud that SWARTZ solicited Victim-1, a resident of the Western District of Wisconsin, to invest significant funds into NSAS with the representation that the funds would be conservatively invested. Victim-1 made regular and periodic investments into NSAS between January 2009 and March 2020. In truth, SWARTZ was pursuing a risky investment strategy that involved trading in options and on margin, and comingling NSAS funds with at least two other investment funds that he managed.

4. It was further part of the scheme to defraud that SWARTZ misrepresented to Victim-1 the financial performance of NSAS.

a. During 2018, NSAS suffered a total loss of approximately 23%, or \$1,800,000. Despite this loss, on January 29, 2019, SWARTZ sent an email to Victim-1 stating that NSAS “had an incredibly great 2018” and was “solidly profitable for the year[.]”

b. In February 2020, SWARTZ engaged in a series of risky market trades, including buying large volumes of Tesla stock on margin, and incurred over \$5,000,000 in losses. Nonetheless, on March 1, 2020, SWARTZ sent an email to Victim-1 and stated that NSAS had suffered only “minimal” losses in February and persuaded Victim-1 to invest

another \$150,000 in NSAS. The following day, March 2, 2020, Victim-1 invested an additional \$150,000 in NSAS.

c. On March 18, 2020, SWARTZ emailed Victim-1 a purported copy of a Charles Schwab account statement for NSAS (“NSAS account”) for the statement period ending on December 31, 2019. The Charles Schwab statement had been altered by SWARTZ to reflect that the total value of the NSAS account on December 31, 2019, was \$1,017,191.92. However, the actual value of the NSAS account on December 31, 2019, was \$58.27.

9. It was further part of the scheme to defraud that SWARTZ failed to inform Victim-1 that he lied about the true financial performance of NSAS or the aggressive nature of the investments in the fund.

10. On or about March 1, 2020, in the Western District of Wisconsin and elsewhere, the defendant,

DAVID SWARTZ,

for the purpose of executing the scheme, knowingly caused to be transmitted, by means of wire communications in interstate commerce, certain signals and sounds, namely: an email originating in Illinois sent to Victim-1 in Wisconsin.

(In violation of Title 18, United States Code, Section 1343).

COUNT 2

1. Paragraphs 1-10 of Count 1 are incorporated here.

2. On or about February 18, 2019, in the Western District of Wisconsin, the defendant,

DAVID SWARTZ,

knowingly provided two false and fraudulent Schedule K-1s for tax year 2018 to Victim-1 that showed that Victim-1's and his related trust's net short-term capital gain from their investment in NSAS exceeded \$258,000. In fact, SWARTZ knew that Victim-1 did not have capital gains from NSAS in 2018 but instead incurred significant capital losses. By providing the false and fraudulent Schedule K-1s to Victim-1, SWARTZ willfully aided and assisted in, and procured, counseled, and advised the preparation and presentation to the Internal Revenue Service of a U.S. Individual Income Tax Return, Form 1040 from Victim-1 for tax year 2018, which was false and fraudulent as to a material matter. That tax return, which was filed on or about September 26, 2019, was false and fraudulent as to a material matter because the Form 1040 substantially overreported Victim-1's and his related trust's capital gains on Schedule D, Line 5. SWARTZ knew that the Form 1040 overinflated Victim-1's and his related trust's Schedule D income because he provided false and fraudulent information regarding the profitability of NSAS in 2018, which he knew Victim-1 would report on his Form 1040 thereby causing Victim-1 to report owing an unjustified amount of federal income tax.

(In violation of Title 26, United States Code, Section 7206(2)).

4-1-2024

Date



TIMOTHY M. O'SHEA
United States Attorney